

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 2033 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
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KANTILAL KHODABHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR TS NANAVATI for Petitioners  
MS. GAJJAR APP for Respondent No. 1  
MR PB MAJMUDAR with MR SA THAKORE for Respondent No. 2

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 14/10/97

ORAL JUDGEMENT

No doubt, several applications have been given before the trial court during the pendency of Criminal Case No.2343 of 1984 including one where the request was made to drop the proceedings. However, either due to over-sight or for any other reasons, witnesses came to be examined. So far as the examination of witnesses are concerned, all

material witnesses have been examined and there is no grievance made as to lack of opportunity to cross-examine the witnesses. What remains are witnesses only of investigating agency and witnesses like Panch witnesses and officials or assistants of the office of the Official Receiver of the Bombay High Court. They would be witnesses of record.

No doubt, before the cross-examination of Solicitor Mr. Ashar is concluded, the present Special Criminal Application has been filed and, therefore, the stage at which his cross-examination was interrupted will have to be considered and the trial shall have to be resumed from that stage.

The learned advocate Shri Nanavati drew my attention to certain observations made by the trial court at page 77, in paragraph 11, with regard to certain exhibits. However, the learned trial court Magistrate has taken care to observe that it is a *prima facie* finding. It is, therefore, clarified that the finding being *prima facie*, it shall be open to the parties to the proceedings to make their respective submissions either challenging the view expressed in paragraph 11 or elsewhere in the impugned order or challenge the very exhibit as to their evidentiary value and the interpretation sought to be put thereon and the same shall be considered by the trial court without in any manner being influenced by the observations made, conclusions arrived at and decisions declared in its order under various exhibits. The impugned order is passed below Exhibits 78, 141, 156, 169 and 170.

The matter has been pending since 1983 which is required to be attended to as early as possible and, therefore, cooperation of the parties is also expected which is assured and the matter shall be concluded as early as possible preferably before 31.1.1998 but in no case later than 31.3.1998. The petition is, therefore, disposed of. Rule is discharged. Interim relief is vacated.